



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Brady P. Gentry  
Chairman, Texas Highway Commission  
Austin, Texas

Dear Sir:

Opinion No. 0-2664

Re: Traveling expenses of highway commissioners and other representatives of the State Highway Department to attend a meeting of the American Association of State Highway Officials.

We have given careful consideration to your letter of August 20, wherein you ask us to advise you if attendance of the Commissioners and selected representatives of the State Highway Department at the meeting of the American Association of State Highway Officials is for state business purposes pertaining to your department and if their traveling expenses will be eligible for payment out of the State Highway Fund.

You advise in your letter that the Association will hold this meeting in Seattle, Washington, September 16-19, inclusive, for the purpose of discussing matters of administration, finance, construction, maintenance, design, testing, etc., by the engineers of the various Highway Departments and the United States Public Roads Administration.

You likewise enclose a copy of a letter of date August 7, 1940, addressed to you by the Honorable Thomas H. McDonald, Commissioner of the United States Public Roads Administration, which letter states that it is important that your department have representatives at the meeting.

Cooperation between the State Highway Department and the Federal Government in respect to the construction of highways is expressly provided for in Article 6674q-4, Revised Civil Statutes of Texas, which enumerates as one of the objects

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for which the State Highway Fund is dedicated:

"(b) For the construction, in cooperation with the Federal Government to the extent of Federal aid to the states, of highways of durable type of the greatest public necessity."

It is clear, therefore, that cooperation with the Federal Government in the construction of highways to the extent of Federal aid to the States, by your department, is especially made the business of your department, and attendance upon meetings held for the purpose of effecting such cooperation is the performance of a part of the State's business committed by law to your department.

A more serious question rises, however, in connection with the matter of payment of traveling expenses incurred in attending such meeting. This is by reason of the fact that Senate Bill 427, Acts of the 46th Legislature, has expressly prohibited the payment of traveling expenses incurred in going to any type of convention within the state or without the state.

In our opinion No. O-1737, we construed the term "convention", as used in Senate Bill 427, as follows:

"We are impelled, therefore, to the conclusion that the Legislature used the word 'convention' in its especial or popular, rather than its broad, significance, conveying the idea, generally, of (a) meeting of members or delegates of a private organization, party, club, society, or the like, for the accomplishment of some common object."

In this opinion we pointed out that it could not have been intended by the Legislature that the restriction against paying traveling expenses to conventions should apply to authorized meetings called by agencies of governments for the purpose of accomplishing the functions of government imposed upon them, and that to apply such a construction would be to impute to the Legislature an intent to paralyze by indirection the administration of the very

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affairs of government for which appropriations were made at length in Senate Bill 427 of the 46th Legislature.

Whether you may be reimbursed for expenses incurred in attendance upon the meeting described, therefore, depends upon whether such a meeting is a "convention" within the meaning of Senate Bill 427. This, in turn, depends upon a determination of the question whether the meeting is one of the members or delegates of a private organization.

In this connection, we are advised by your Mr. Green that the American Association of State Highway Officials was organized more than 20 years ago. Mr. Green advises us that the occasion for the organization of the Association was a request by the officials of the Public Roads Administration of the Federal Government that such an organization be effected as a instrumentality for the promotion of effective cooperation between the states and Federal governments in respect to the construction of highways. This statement of the origin of the Association and the purpose to be accomplished by it is corroborated in your letter of January 26, 1940, to this department, a portion of which is quoted in our opinion No. C-1903, as follows:

"The membership of the American Association of State Highway Officials is composed of representatives of the Public Roads Administration and all of the Highway Departments of the states and territories of the United States. The association is recognized by the Public Roads Administration as the policy-forming organization in matters of administration, accounting, design, construction, materials testing, maintenance, methods and procedure, and such policies and procedures as are set forth and adopted by the Association are incorporated in the standards, requirements and reports required by the Public Roads Administration of the State Highway Departments. The executive committee of the Association has full authority to review the United States numbered roads system and the numbering and marking thereof, and to make additions,

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changes, revisions, extensions, or reductions in said road system, and to revise the marking prescribed for such roads. . . ."

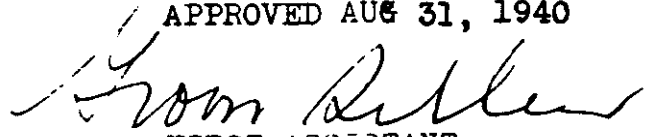
It is not to be questioned that the members of your department might, at the request of the Public Roads Administration of the United States, assemble in Washington, D. C., or some other port, with similar representatives from other states, for a joint discussion of the methods of cooperation between the state and Federal agencies with respect to the construction of highways. This would not be a convention, because it would not be a meeting of a private organization. If, in this meeting, it should be decided that the business of the meeting might be more expeditiously handled by organizing the conference, electing officers, and selecting committees, there would still be no convention, for the reason that, though there would be an organization, that organization would not be private in character. It appears to us, and we so hold, that this is substantially what has been done in effecting the organization known as the American Association of State Highway Officials. Considering the history of the organization of the Association, and the purposes for which it was organized, and the nature of its functions and its relation to the Federal agency, we are of the opinion that it is not "a private organization", but, on the contrary, has been vested with an official character.

You are therefore advised that the traveling expenses incurred in attending the meeting of this organization will be eligible for payment out of the appropriations made to your department by the Legislature for traveling expenses.

Yours very truly

APPROVED AUG 31, 1940

ATTORNEY GENERAL OF TEXAS



FIRST ASSISTANT  
ATTORNEY GENERAL

By



R. W. Fairchild  
Assistant

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